

UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF WISCONSIN

ROUMANN CONSULTING INC. and
RONALD ROUSSE,

Case No. 2:17-cv-01407-LA

Plaintiffs,

v.

T.V. JOHN & SON, INC. and THE KROGER
CO.,

Defendants.

**DEFENDANT T.V. JOHN & SON, INC.'S RULE 26(E)(2) SUPPLEMENTAL
EXPERT WITNESS DISCLOSURE**

Defendant T.V. John & Son, Inc., by its attorneys, Godfrey & Kahn, S.C., submits the following Supplemental Disclosure of Expert Testimony pursuant to Federal Rule of Civil Procedure Rule 26(e)(2) and the Court's Order dated April 23, 2019 (ECF No. 68):

1. **Michael J. Kuhn, CPA**
Vrakas S.C.
445 South Moorland Road, Suite 400
Brookfield, Wisconsin 53005

Mr. Kuhn's supplemental report, which supplements the opinions and information relied upon in the July 19, 2019 report and disclosure is attached as Exhibit 1.

Dated this 29th day of July, 2024.

By: s/Andrew S. Oettinger
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INC.

31564921.1

EXHIBIT 1



July 25, 2024

Attorney Andrew Oettinger
Godfrey & Kahn, S.C.
833 East Michigan Street, Suite 1800
Milwaukee, WI 53202

Re: Roumann Consulting, Inc. v. T.V. John & Son, Inc.
Report Supplement

Dear Attorney Oettinger:

I write in connection with the above captioned case to supplement my previous report dated July 12, 2019. Prior to that report, I analyzed and offered opinions on the calculation of net profit realized and commissions as of April 30, 2019 under the Independent Contractor Agreement (the Agreement) between Roumann Consulting Inc. (Roumann) and T.V. John & Son, Inc. (TV John). To accomplish this task, we reviewed information provided by TV John management and any other information we deemed necessary. TV John has since been renamed Symbiont Construction, Inc., however, we will refer to the company as TV John throughout to be consistent with the company name as of the date of the Agreement. The opinions summarized in my prior report and this supplement reflect my assessment to a reasonable degree of certainty.

The opinions presented are subject to refinement and revision if additional information becomes available for analysis. At the time of the preparation of the July 12, 2019 report, there were seven projects in process that have since been completed. This letter will provide an update on the following seven projects:

16KROG-010
16KROG-021
17KROG-035
18MEN-001
18MEN-002
18MEN-016
18MEN-023

Supplemental facts and data considered in formulating opinion

I have reviewed the following additional documents to supplement my opinion on the net profit realized and the accuracy of the commission calculation as it relates to the seven projects in process as of April 30, 2019:

- Updated commission calculation for Roumann Consulting prepared by TV John management as of March 8, 2023
- Selected job cost summary and detailed cost reports for selected projects on the commission calculation as outlined below:

16KROG-010 Job Detail Report
16KROG-021 Job Detail Report
16KROG-021 Project Labor and Expense Report
18MEN-001 Job Detail Report
18MEN-002 Job Detail Report

In preparing this supplement, I discussed the internal control of TV John with Mr. David Schlidt, CFO, and was informed that there have been no changes to the internal control system other than a new computer software was utilized to track project costs. To test the accuracy of the commission calculation, I obtained and reviewed the reports summarized above. I reviewed the reports to determine the actual costs on the projects per TV John accounting records and to verify those project costs were materially accurate compared to the costs listed on the updated commission calculation prepared by TV John management as of March 8, 2023. My review consisted of four of the seven projects in process as of April 30, 2019. When no significant differences were identified between the project costs per the accounting records and the project costs listed in the revised commission calculation, it was determined that the review of additional projects was unlikely to produce different results.

Opinion

I affirm and restate my analysis and opinions as contained in my July 12, 2019 report, which remains unchanged except for the updates contained in this supplement.

TV John management prepared the commission calculation as of March 8, 2023. I have modified the presentation format of the commission calculation and have included the modified document just summarizing the seven in process jobs as of April 30, 2019 as Exhibit A. The modifications I made were to highlight information that was relevant to our analysis and opinion and to remove information that was not relevant and also formatting changes to make the document easier for a layperson to read and understand.

We have determined that TV John's commission calculations are reasonably accurate as of March 8, 2023 in accordance with the Agreement. The commissions calculation as of April 30, 2019 indicated that the estimated project profit before commission on the seven in process projects was \$1,403,110 and the estimate of the amount owed at project completion was \$420,933 on the seven projects as of April 30, 2019. In the updated commission calculation as of March 8, 2023, the net profit realized on the projects that were in process as of April 30, 2019 was \$575,885 and the amount owed Roumann was \$172,765 as outlined in Exhibit A. Thus, the updated commission calculation reduced the amount owed from \$420,993 to \$172,765, a reduction of \$248,168.

The commission calculation as of April 30, 2019 indicated that the amount owed to Roumann was \$401,875. After the \$248,168 reduction in commissions owed on projects in process as of April 30, 2019 and other minor adjustments made by TV John management of \$6,605, the amount of commission owed to Roumann under the Agreement based on net profit realized on projects is \$147,102.

Matters outside the scope of this report

I am not an attorney and am not offering a legal opinion on this case. I also am not offering an opinion on anything other than the net profit realized and commissions under the Independent Contractor Agreement.

Please let us know if we can be of further service in this matter.

Sincerely,

VRAKAS S.C.



Michael J. Kuhn

Symbiont Construction, Inc.
Commission Calculation for Roumann Consulting
For Projects that were in Process as of April 30, 2019
As of March 8, 2023

Exhibit A

Name of Project	Project Number	Contract Value	Actual Cost without Commission	Overhead Adjustment Allowed per Contract	Project Profit before Commission	Amount Owed Roumann for projects in process as of April 30, 2019
Kroger - Jeffersonville, IN	16KROG-010	\$ 7,345,939	\$ 7,186,898	\$ (7,000)	\$ 152,041	\$ 45,612
Kroger - WLAF J824 W Lafayette, IN	16KROG-021	12,299,779	12,136,076	(7,000)	156,703	47,011
Kroger - Muncie, IN J0332	17KROG-035	2,147,306	1,933,835	(7,000)	206,471	61,941
Menards - WH Addition - Racine	18MEN-001	1,355,871	1,353,131	(7,000)	(4,260)	(1,278)
Menards - WH Addition - Burlgtn	18MEN-002	967,500	911,748	(7,000)	48,752	14,626
Menards - WH Addition - Cheyenne, WY	18MEN-016	519,066	527,930	(7,000)	(15,864)	(4,759)
Menards - Racine Phase II	18MEN-023	2,186,627	2,147,585	(7,000)	32,042	9,613
		\$ 26,822,088	\$ 26,197,203	\$ (49,000)	\$ 575,885	\$ 172,765